No. _____

In The
Supreme Court of the United States

LISA and GREG PARTIN,

Petitioners,

v.

MICHIGAN CHILDREN'S INSTITUTE,

Respondent.

On Petition For A Writ of Certiorari To Michigan Supreme Court

PETITON FOR WRIT OF CERTIORARI

LISA PARTIN
17598 Smith Street
Riverview, Michigan 48193

QUESTIONS PRESENTED

1. Whether Michigan Adoption Code MCL 710.45 violates Petitioners' Constitutional right to due process when it requires Petitioners to prove too much burden to overcome Respondent's decision which is arbitrary and capricious and it does not require Respondent to apply best interest factors of Michigan Adoption Code MCL 710.22 when deciding adoption.

2. Whether Michigan Supreme Court failed to decide that Respondent's decision was arbitrary and capricious when Respondent failed to consider best interest factors under MCL 710.22 and Respondent's decision was made with no reasons.

3. Whether Petitioners' Constitutional right was violated when the State failed to place their grandchildren in Petitioners' place.

4. Whether there was a Constitutional violation when CPS took Petitioners' grandchildren In January 2015 even before biological mother's parental right was terminated in June 2015.

PARTIES TO THE PROCEEDINGS

Petitioners, Lisa and Greg Partin, were Petitioners below.

Respondent, Michigan Children's Institute, was Respondent below.

RULE 29.6 DISCLOSURE

No Petitioners is a corporation; therefore, a corporate disclosure statement is not required under Supreme Court Rule 29.6.

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PETITION FOR A WRIT OF CERTIORARI

Lisa and Greg Partin respectfully petition for a writ of certiorari to review the judgment of Michigan Supreme Court in this matter.

OPINIONS BELOW

The decision of Michigan Supreme Court, unpublished, is reprinted in the Appendix (App.) at 1a and 2a. The decision of court of appeals of Michigan, unpublished, is reprinted at App. 3a-12a. The decision of Wayne County circuit court for the state of Michigan, unpublished, is reprinted at App. 13a.

JURISDICTION

On October 15, 2015, Petitioners submitted 2 adoption applications (DHS 4081) to Michigan Department of Health and Human Services (MDHHS), in regards to adopting their 2 grandchildren, Cody and Emmett Wilson. On January 12, 2016, MDHHS recommended denying consent for adoption (DHS-883). On February 26, 2016, Petitioners subsequently filed a motion to adopt/section 45 in Wayne County circuit court pursuant to MCL 710.45. On June 10, 2016, the section 45 motion to adopt was denied and dismissed. (App. 13a). In July 2016, Petitioners appealed the dismissal to the court of appeals of Michigan in a timely manner, and subsequently on February 14, 2017, the appeal was denied. (App. 4a-12a). Petitioners filed motion for reconsideration and it was denied. (App. 3a). Petitioners submitted an application for leave to appeal the February 14, 2017 judgment of the court of appeals, which was denied on September 12, 2017. (App. 2a). Subsequently, Petitioners filed a motion for reconsideration of the Michigan Supreme Courts ruling, and was again denied on November 1, 2017. (App. 1a).

Petitioners seek review by the United States Supreme Court on the judgment of the Michigan courts. The United States Supreme Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS

The statutory and constitutional provision involved are reproduced in Appendix F.

INTRODUCTION

This case arose out of Michigan Adoption Code MCL 710.45 when Petitioners were refused by Respondent Michigan Children's Institute (MCI) to adopt their grandchildren whose biological mother's parental right was terminated. To challenge MCI's decision, MCL 710.45 requires Petitioners to prove that the MCI's decision was "arbitrary and capricious." Because this statute gives too much burden on Petitioners and too much discretion to MCI, this resulted in a violation of due process right of the U.S. Constitution where MCI's decision is final and there is very few case that successfully have challenged the MCI's decisions. Although Michigan Supreme Court held that "arbitrary and capricious" means "decisive but unreasoned," lower courts are very hesitant to overturn the MCI's decisions as long as the decisions are made based on some reasons, such as relative home study and preliminary assessment report from its agent, and notes from its superintendent's consultant. This interpretation of the law effectively makes the challenge to the MCI's decision very limited and creates Petitioners undue burden, which infringes Petitioners' Constitutional right and gives excessive authority to MCI. Therefore, MCL 710.45 must be fairly interpreted to avoid the due process violation and balance the Petitioners' right to adoption and the State's interest by way of forcing the State to conduct all the best interest of the child factors and giving Michigan courts to review the case *de novo* for the section 45 hearing.

STATEMENT OF THE CASE

1. Petitioners, Lisa and Greg Partin are the maternal grandparents of Cody Wilson (DOB: 7/9/11) and Emmett Wilson (DOB: 2/16/13). Petitioners are the parents to Ashley Wilson who is the biological mother of Cody and Emmett Wilson. Ashley Wilson is also the biological mother of Evan Wilson (DOB: 12/1/04). Petitioners have been the legal guardians of Evan Wilson since August 10, 2006.

2. On or about January 4, 2015, Emmett suffered a fracture to his right ankle as a result of abuse by Ashley Wilson's former boyfriend. On or about January 8, 2015, Cody and Emmett were removed from their mother's care by CPS and placed in foster care.

3. Petitioners immediately asked to take their grandchildren in, and Child Protective Service (CPS) placed Cody and Emmett into their care. The following day CPS showed up and asked Lisa Partin for 2 days worth of clothing for the children, giving no details as to where they were going or why they were leaving. The children were subsequently placed in a foster home and never returned to their biological family.

4. Since January 2015, Petitioners have done everything in their power to have their grandchildren placed into their home again, in order to reunite the children with their older sibling and blood grandparents. Petitioners attended family meetings with regards to the children, had their home evaluated, obtained character references from family, friends, and professionals; clearly showing they were more than capable of caring for their grandchildren. CPS worker Kimberly Spencer originally placed the children with Petitioners and found to be more than fit for the placement of their grandchildren. After CPS originally placed the

children into their care, and subsequently removed them, Petitioners were refused for consideration as placement.

5. Petitioners requested family visits with their grandchildren and were denied by Lutheran Family Services. Originally, Petitioners were informed that they were entitled to one family visit a month, but every time the family requested the visit they were refused due to "lack of staff to accommodate at this time." The letter addressed to Lisa Partin, dated April 2015, states that:

> "Parenting time is utilized to manage the bond for children with their parents to practice their parenting skills. Lutheran Social Services, the Department of Human Services, and the GAL, all agree that it is not in the best interest of the children to have additional family members visit at this time."

6. Petitioners also have custody of an older sibling to Cody and Emmett. During the time that the children were in the foster care, Petitioners asked if the siblings could visit. They were denied. The Guardian Ad Litem (GAL) for the children, MaryAnn Bruder, acted discriminatingly as well as untruthful in regards to the matter of sibling visits. MaryAnn Bruder had not had any contact with the Partin family, besides one family meeting she attended as well as Lisa Partin. When Lisa Partin questioned how denying visits between siblings was in the best interest of the children, MaryAnn Bruder responded by stating, "He is not entitled to visits because he is not part of the system." MaryAnn Bruder stated that Cody and Emmett's older brother was "violent" although she had no reason or evidence to substantiate this. Even after letters from doctors, schools, family, and friends stating otherwise, MaryAnn Bruder and Mrs. Rosssman made it their mission to alienate Cody and Emmett from their loving family.

7. On or about June 23, 2015, Ashley Wilson's parental rights were terminated to Cody and Emmett. Petitioners were notified by MDHHS that the children were going to be placed for adoption and Petitioners immediately submitted an adoption application. MDHHS formally responded with the decision to deny Petitioners consent to adopt their grandchildren. The reason for denying consent was:

> "The foster parents have demonstrated the ability to meet all of Cody and Emmett's physical, educational, dental, and emotional needs. Therefore, it is Cody and Emmett's best interest to remain in their current placement."

Petitioners are more than capable of providing for the needs of Cody and Emmett, given the opportunity. While the children have been in their current placement for some time, a controlled reunification process would eliminate the stress on the children. Long term, the benefits of being with their biological family are substantial and outweigh the benefits of being adopted by foster parents.

8. Had it not been for Lutheran Services, the GAL, and CPS's alienation of Cody and Emmett from their biological family, this would not have even been a factor. Factors the newly appointed MCI superintendent documented as "reason for concerns" were as follows:

> A. Petitioner Lisa Partin's diagnosis of cancer was listed as a "concern" although she is in remission and has numerous letters from the best oncologists in the United States attesting to her health and capability of caring for Cody and Emmett. Lutheran Services, CPS, and MCI have all denied discriminating against

Lisa due to her past fight with cancer and even testify under oath that is was not a factor in their denial. The documents provided to Lisa Partin tell a different story. From the very first family meeting the Petitioners attended until the testimony at appeals court, her battle against cancer was been used against her as a "concern" in placing the children with her. Although Lisa Partin passed the DHS physical, and had 8 letters stating she was in remission, CPS still questioned Lisa Partin for a "time of death." The family team meetings were not focused on the best interest of the children instead focused on Lisa Partin's diagnosis.

B. Petitioner Greg Partin's expunged central registry record from over 15 years ago was documented as a "concern." Greg Partin is an upstanding, hard working, law abiding citizen. Letters from family and friends profess that he is a loving and doting Grandfather and husband, yet this information was never taken into consideration. In regards to the maternal grandfather of Cody and Emmett, they "cherry picked" the information in order to paint Greg Partin in a negative light. Greg Partin was scrutinized for "working too much" and "never being home" because he drove a truck. This is not accurate information, which results in painting Mr. Partin in a negative light. Mr. Partin has driven a gasoline tanker for 20 years which is a profession that holds their employees to a very high standard, including physicals, random drug tests, DOT exam, fingerprinting for background checks and also only allows employees to drive locally. A decision based on pieces of false information cannot form a

complete picture, thereby leading to an arbitrary and capricious decision.

C. GAL MaryAnn Bruder claimed that Cody and Emmett's older sibling Evan Wilson was violent, although she had never met him or even spoke with the family, besides one family team meeting Lisa Partin attended. Multiple letters from his pediatrician, school, family, and friends showed the loving and caring disposition of Evan Wilson. Evan Wilson is a straight A student, consistently testing in the high average of his entire school district. His school attested to Evan's disposition by writing a letter stating that he has never been disciplined for any type of violence in the 8 years that he has attended. GAL MaryAnn Bruder also stated that Evan is special needs, although this could not be farther from the truth. There is no substance to this claim and doctor reports contradict her statement. Evan has suffered miserably due to the alienation of his biological brothers.

D. The Petitioners have been said to deny the culpability of Ashley Wilson in regards to Emmett's abuse. When CPS became involved in January 2015, it was very unclear what exactly had happened to little Emmett. Petitioners never denied Ashley Wilson's failure to protect. They, very simply, were unclear about what exactly happened, due to living in separate homes and also being out of state at the time. Ashley Wilson's rights were terminated in June 2015. Although Ashley was not the perpetrator in the abuse that occurred to Emmett, Petitioners fully hold her responsible for failing to protect Emmett. Petitioners believe as

> parents that you have to be accountable for your child's safety and well being at all times, as well as being an advocate for your child. The removal of their grandchildren has torn a whole in this family. The relationship between the Petitioners and Ashley Wilson was severed long before they petitioned to adopt their grandchildren. Had Lutheran Services, MCI, or CPS asked Petitioners of their stance on the issue, they could have clarified. To assume denial of responsibility as a reason to deny Cody and Emmett a chance to be adopted by their biological family is arbitrary. No evidence was given to support this theory, aside from a reference to a chance encounter in court. The Petitioners attended a court hearing in regards to the children's placement, unaware that Ashley was required to attend. Assuming that Petitioners would not keep the boys safe due to specific parties being in the same courtroom is arbitrary, capricious and without reason.

Although these reasons are stated in a number of documents, later testimony from Mrs. Rossman, an MCI superintendent, stated that she did not "give weight" to these factors. If the factors listed hold no weight, they should not be area of concerns. CPS, Lutheran Services, and MCI Superintendent went out of their way to paint the Petitioners in a negative light.

9. On or about February 26, 2016, Petitioners timely filed a section 45 motion for adoption in Wayne County Circuit Court. On June 10, 2016, the court denied the motion and dismissed the petition. (App. 13a).

During the adoption hearing, the Petitioners were to prove that the MCI's decision was arbitrary and capricious.

Under the Michigan Adoption Code, a person seeking to adopt a child who has been made a state ward must obtain the consent of the authorized representative of the department to whom the child has been permanently committed. MCL 710.43(1)(b); MCL 710.45(1).

During the section 45 hearing, Petitioners were not allowed to "compare" the foster family. It is presumed that the foster family is an equal or better placement than the maternal grandparents for the children based on a flawed system. Judge Dingell himself stated while voicing his opinion on the section 45 hearing:

> ". . . and in every case yet I've had to say no to them, and this is another case where I'm going to have to say no, there were reasons stated. The MCI superintendent may well be wrong. There are things that the MCI superintendent probably should have considered more closely that I would have considered if I was the MCI superintendent. But you couldn't get me to be MCI superintendent at gun point. I cannot say there was no good reason not to say yes to grandma and granddad here."

How can it be determined that the foster parents are the best placement for children if crucial factors are not taken into consideration? There's no comparison at all. During the hearing Judge Dingell openly stated that he has never granted the section 45 adoption. The scales of justice are tipped so far in favor of the State, and it's impossible to reach any resemblance of balance.

Additionally, MCI's decision denying Petitioners for adoption was arbitrary and capricious when the denial was not based on factual evidence or reason. Mrs. Rossman, the MCI superintendent, testified that she based her decisions on "makes assumptions and relies on experience" versus

actual evidence based on individual cases. Neither GAL MaryAnn Bruder, Mrs. Rossman, or any of the agency employees ever made one phone call in regards to the best interest or well being of Cody and Emmett Wilson. During the section 45 hearing, Mrs. Rossman testified that she found no reason to deny or consent adoption:

> Counsel: There's nothing to reflect on them in favor or against them as a result?
>
> Rossman: Correct. (Section 45 hearing transcript May 26, 2016 at p164)

10. Petitioners filed an appeal to the Michigan Court of Appeals. On February 14, 2017, the court affirmed the circuit court decision finding that the MCI's decision was not arbitrary or capricious conduct. (App. 4a-12a). The motion for reconsideration was also denied on April 20, 2017. (App. 3a).

11. Petitioners filed an appeal to the Michigan Supreme Court. On September 12, 2017, the court denied the appeal. (App. 2a). The Michigan Supreme Court also denied Petitioners appeal to the motion for reconsideration on November 1, 2017. (App. 1a).

REASONS FOR GRANTING THE PETITION

I. Michigan Adoption Code MCL 710.45 Violates Petitioners' Constitutional Right to Due Process When It Requires Petitioners to Prove Too Much Burden to Overcome the MCI's Decision Which Is Arbitrary and Capricious and It Does Not Require MCI to Apply The Best Interest Factors of Michigan Adoption Code MCL 710.22 When Deciding Adoption.

Michigan Adoption Code MCL 710.45 violates Petitioners' Constitutional Due Process right when it requires too much burden on Petitioners to challenge MCI's decision for adoption and it effectively gives the State excessive and unbalanced authority in deciding adoption. The Fourteenth Amendment provides that no State shall "deprive any person of life, liberty, or property, without due process of law." It is long recognized that the Amendment's Due Process Clause, like its Fifth Amendment counterpart, "guarantees more than fair process." *Washington v Glucksberg*, 521 US 702, 719 (1997). The Clause also includes a substantive component that "provides heightened protection against government interference with certain fundamental rights and liberty interest." 521 US at 720; see also *Reno v Flores*, 507 US 292, 301-302 (1993). "The child is not the mere creature of the State; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligation." *Pierce v Society of Sisters*, 268 US 510, 535 (1925). The determination of whether a government action unconstitutionally burdens a familial interest requires consideration of all of the competing familial interest involved. *Michael H. v. Gerald D.*, 491 U.S. 110 (1989). The parent-child relationship is not the only constitutionally

significant interest at stake in cases such as this. The relationship between a grandchild and grandparent is also an important part of family life. In some instances government action substantially interfering with the grandchild-grandparent relation would be unconstitutional. *Moore v. East Cleveland*, 431 U.S. 494 (1977). Petitioners do not contend that grandparents have a constitutional right to adoption. Striking the balance between parent-child and grandchild-grandparent interests involves a difficult assessment of complex and often changing social, familial and personal issues. The State failed to consider best interest factors more fully and carefully when evaluating Petitioners, grandparents of the Cody and Emmett, for adoption, and the Michigan Adoption Code specifically MCL 710.45 is unconstitutional as to creating excessive burden on Petitioners to challenge the MCI's decision.

In analyzing due process issues, the court applies the three-pronged test of *Mathews v Eldridge*, 424 US 319, 334-335 (1976). First, the court must consider the nature of the private interest at stake. Next, the court weighs the government's interest. Finally, the court considers the risk that the chosen procedure will result in an erroneous decision. *Id.* at 335. Also see *In re Sanders*, 495 Mich 394, 852 NW2d 524 (2014); *In re Rood*, 483 Mich 73, 92-93, 763 NW2d 587 (2009); *In re Vasquesz*, 199 Mich App 44, 501 NW2d 231 (1993).

MCL 710.45(2) provides that if an adoption petitioner is denied consent to adopt, "the petitioner may file a motion with the court alleging that the decision to withhold consent was arbitrary and capricious." "Unless the petitioner establishes by clear and convincing evidence that the decision to withhold consent was arbitrary and capricious, the court shall deny the motion . . . and dismiss the petition to adopt." MCL 710.45(7). Thus, "[p]ursuant to MCL 710.45, a family court's review of the superintendent's decision to withhold consent to adopt a state ward is limited to determining whether the adoption petitioner has established

clear and convincing evidence that the MCI superintendent's withholding of consent was *arbitrary and capricious*." *In re Keast*, 278 Mich App 415, 423; 750 NW2d 643 (2008) (emphasis added). Whether the circuit court properly applied this standard is a question of law, which Michigan court reviews for clear legal error. *Id.* "[C]omparing a given case with existing statutory or constitutional precedent is quintessentially a question of law for the judge, not the jury." *Reese v. Cty. of Sacramento*, 888 F.3d 1030, 1037 (9th Cir. 2018).

Michigan Supreme Court held that the generally accepted meaning of "arbitrary" is "determined by whim or caprice," or "arrived at through an exercise of will or by caprice, without consideration or adjustment with reference to principles, circumstances, or significance, . . . decisive but unreasoned." *Goolsby v Detroit*, 419 Mich 651, 678; 358 NW2d 856 (1984) (quotation marks and citations omitted). The generally accepted meaning of "capricious" is "[a]pt to change suddenly; freakish; whimsical; humorsome." *Id.* (quotation marks and citations).

MCL 710.45 as well as the Michigan courts' interpretation of the statute effectively creates huge burden on Petitioners to challenge the MCI's decision. The MCI and Michigan courts operate with the assumption that "if there exist good reasons why consent should be granted and good reasons why consent should be withheld, it cannot be said that the representative acted arbitrarily and capriciously in withholding that consent even though another individual . . . might have decided the matter in favor of the petitioner." *In re ASF*, 311 Mich App 420, 436; 876 NW2d 253 (2015), quoting *In re Cotton*, 208 Mich App 180, 185; 526 NW2d 601 (1994). Michigan courts interpret that MCI's decision is not arbitrary or capricious as long as the decision is made shown some sort of good reasons. The law does not require MCI superintendent to evaluate credibility or use hearsay in making the determination. The law does not require MCI to go over the best interest factors for the adoptee when

deciding on the adoption as would be required in a custody dispute or parental right termination matter. The only thing that MCI must show is any good reason to deny Petitioners' adoption application. The law effectively creates a de facto arbitrary favoritism toward MCI and a huge burden on the Petitioners to challenge otherwise. Here, MCI superintendent rejected Petitioners' adoption application for their grandchildren based on length of time the children have lived in a stable satisfactory environment, and the desirability of maintaining continuity, and reports of relative placement home study and preliminary assessment from MCI's agent Lutheran Adoption Services, and notes from MCI superintendent's consultant. During the section 45 hearing, Petitioners were not allowed to compare the best interest factors of the adoptees to foster parents. MCI exercises unchecked power in deciding the adoption, and this must be controlled by Michigan court by requiring them to review section 45 hearing *de novo*.

Under MCL 710.45, Michigan courts can only review the case if MCI's decision was arbitrary and capricious even though there are factual disputes that the reasons were groundless. *In re Coh*, unpublished opinion per curiam of the Court of Appeals of Michigan, issued December 4, 2014, (Docket No. 309161 and 312691 at dissent p24-25 (MARKEY, J. dissenting), cited:

> "The rationale for this decision and that in the earlier placement case is readily distilled: Leave the children where the system first hastily placed and left them the longest, then justify it all by simply completing the illogical circle by righteously declaring that they're best off where they've now been the longest! This contrived, bootstrapping "analysis" by the Supreme Court, which reversed this panel's original decision and which now essentially compels the instant decision of this Court to justify the resolution of these cases, is at best

> embarrassing, and at worst a sad, shameful example of a process and a system that failed this family." *In re Coh*, 2014 Mich App LEXIS 2385 at p24-25 (2014).

While still appealing the decision in regards to this Petition, the children were adopted by an unmarried couple Eleanore Owen Eveleth and Lance J. Hamilton. They house multiple foster children as a source of income. They live in the middle of a community that is 98% crime riddled in Detroit, and send the children to a school that is below educational standard. From day one of the children's placement in their home, there have been multiple concerns for the children's safety. Including concern that they may not be able to adequately care for and meet the needs of the children, as reported by Lutheran Child Services. They were also disciplined by Lutheran Child Services for not following foster care procedures, including having Cody sedated for a dental procedure while under her care. They have failed to provide the boys with adequate health care, hygiene, and nutrition. Concerns of their wellbeing were brought up to workers multiple times and ignored. None of this information was allowed to be heard at court. "[I]ndividuals cannot always be held immune for the results of their official conduct simply because they were enforcing policies or orders promulgated by those with superior authority. Where a statute authorizes official conduct which is patently violative of fundamental constitutional principles, an officer who enforces that statute is not entitled to qualified immunity." *Grossman v. City of Portland*, 33 F.3d 1200, 1209 (9th Cir. 1994). With so many important factors missing, the MCI's decision was not made for the best interests of the children.

II. Michigan Supreme Court Failed to Decide that The MCI's Decision Was Arbitrary and Capricious When MCI Failed to Consider Best Interest Factors Under MCL 710.22 and MCI's Decision Was Made With No Reasons.

Michigan supreme court failed to decide that the MCI superintendent's decision was arbitrary and capricious because she failed to consider, or to adequately consider, Cody and Emmett's unique circumstances, including, for example, their attachment to Petitioners. The purpose of the adoption code is to provide the adoptee with adoption services, to safeguard the adoptee's best interests, and to achieve permanency for the adoptee. MCL 710.21a. The best interests of the adoptee are the overriding concern, and "[i]f conflicts arise between the rights of the adoptee and the rights of another, the rights of the adoptee shall be paramount." MCL 710.21a(b). Petitioners had taken excellent care of Cody and Emmett for years. Given Cody and Emmett's close bond to Petitioners and to their brother, who remains in Petitioners' care, reasonable minds might well question the wisdom of denying Petitioners consent to adopt and of removing Cody and Emmett from the continuity of a stable family setting. See MCL 710.22(g). Since the Michigan law does not require the courts to review the case de novo, the lower courts cannot say that the superintendent made correct decision. *In re Keast*, 278 Mich App 415, 424-425, 750 N.W.2d 643 (2008); *In re Cotton*, 208 Mich App 180, 184, 526 N.W.2d 601 (1994).

Moreover, the MCI's decision was made on false reports. The children's GAL, Mary Ann Bruder was involved in an attempted kidnapping scheme involving a foster child, unethical professional conduct, questionable moral behavior, and subsequently fired from her job as assistant prosecuting attorney for Macomb County. *Bruder v Dep't of Human Servs.*, unpublished opinion per curiam of the Court of

Appeals of Michigan, issued April 28, 2015 (Docket No. 322859, 2015 Mich App LEXIS 903):

> 1. "Several investigations were initiated into petitioner's conduct, and although most of the allegations were found to be unproven, she was found to have engaged in at least some inappropriate conduct."
>
> 2. "Of note, one investigation in particular was commenced because petitioner was alleged to have engaged in a kidnapping scheme."
>
> 3. "At the subsequent meeting with Macomb DHS, Macomb DHS information that Catholic Charities and Johnson had not previously been aware of, including information about the alleged kidnapping attempt and also certain allegations of harassment. Johnson testified that he found the information "alarming" and "bizarre.""
>
> 4. On October 19, 2005, Macomb County Prosecutor issued the "preliminary statement of charges" against MaryAnn Bruder that:
>
> > A. Maryann Bruder, contrary to specific direction from authorized supervisory employees of the Office of the Prosecuting Attorney, induced Sheriff Department employees to arrest an individual for purposes of having that individual testify at a trial.
> >
> > B. MaryAnn Bruder was less than truthful in the investigation conducted by the County of Macomb subsequent to the allegations referred to in A, above.

Mary Ann Bruder has not been truthful or ethical in her position as a guardian ad litem. Her history shows her character. How can someone whose license for foster care has been revoked, fired from her assistant prosecuting attorney position due to misconduct, conspired to kidnap,

and committed perjury in the court, be allowed to make recommendations for children's lives? Allowing the testimony and opinion of someone who disregards the law and oath of the court is an injustice. Numerous evidence will show that MaryAnn Bruder GAL has lied, was manipulative, untrustworthy, and corrupt. Her testimonies, recommendations, and opinions have tainted the decisions made in regards to the adoption of Cody and Emmett. GAL Mary Ann Bruder's statements and recommendations were NOT based on evidence or fact, only false information designed to sway the decision to deny the adoption. There is nothing to substantiate the numerous false claims she has made, and on the contrary, evidence of perjury.

Mary Ann Bruder later stated under oath that Petitioners were allowed visits with Cody and Emmett while in foster care. As previously stated, the Petitioners were denied visits with their grandchildren based on the recommendation of CPS, Lutheran Services, and GAL MaryAnn Bruder. In an attempt to mislead the court into believing that Petitioners had made no effort to continue a relationship with Cody and Emmett, Mary Ann Bruder Clearly, knowingly committing perjury in the court.

> MCL 750.422 Perjury committed in courts— Any person who, being lawfully required to depose the truth in any proceeding in a court of justice, shall commit perjury shall be guilty of a felony, punishable, if such perjury was committed on the trial of an indictment for a capital crime, by imprisonment in the state prison for life, or any term of years, and if committed in any other case, by imprisonment in the state prison for not more than 15 years.

The devious and untruthful testimonies made by MCI superintendent Mrs. Rossman and GAL Mrs. Bruder, were

an obvious attempt to cover up the fact that the decision to deny the Petitioners' recommendation to adopt their grandchildren was arbitrary and capricious and based on no factual evidence.

III. Petitioners' Constitutional Right Was Violated When the State Failed to Place Their Grandchildren in Petitioners' Place.

The State failed to place Cody and Emmett in Petitioners' place. When placement is necessary, the Michigan law prefers to place the child with relatives and in the most family-like setting available that will meet the child's need. MCL 722.954a(2) and (4); also see MCL 712A.1(3) and MCR 3.965(C)(3). Also the Michigan Adoption Code states that the children should be placed in a home most similar to the one they would have had with their biological family. The foster home cannot compare to the life they could have with their grandparents. Petitioners have lived in the same home in one of the safest community in Michigan for over 15 years. The schools have one of the highest ratings in the Downriver area. Petitioners have been married 32 years and live a Christian lifestyle. Greg Partin has a stable job, and is an excellent provider for his family. Lisa Partin is dedicated to her family 100%, staying at home to raise her oldest grandchild who Petitioners have had guardianship of since 2005, which included annual evaluations and report. In 2017 Judge Dingell approved the adoption of Cody and Emmett's older sibling- Evan Wilson, the same Judge that denied the Section 45 adoption of his younger siblings. How can any court justify the adoption of one sibling and not the others? How can separating siblings that are bonded be in the best interest of the children? How is this not mental abuse by the state? These children have been alienated from everything they knew and love. No

different How can a grandparent compete for the right to adopt their flesh and blood, if the opposing party is not subjected to the same scrutiny as the Petitioners? If a foster family is not held to the same investigative process, same standards, how can a satisfactory decision be made with only one side of the argument?? It leads to the belief that the decision to deny consent for the Petitioners to adopt, grant adoption consent to the foster family, and subsequently the formal adoption completed while in appeals, was arbitrary and capricious.

IV. There Was a Constitutional Violation When CPS Took Petitioners' Grandchildren In January 2015 Even Before Biological Mother's Parental Right Was Terminated In June 2015.

There was a constitutional violation when the CPS took the grandchildren in January 2015 before their biological mother's parental right was terminated in June 2015. Parental rights are a fundamental right protected by the due process clause of the United States Constitution; accordingly, the Michigan Adoption Code provides that a parental release for adoption may not be executed until after the court makes such investigation as it deems proper and has fully explained to the parent his or her legal rights and the voluntary and permanent nature of the release for adoption. *In re Blankenship*, 165 Mich App 706, 418 NW2d 919 (1988). Petitioners have never seen Cody and Emmett since January 2015 since the CPS took the grandchildren. Their biological mother's parental right was terminated in June 2015. Therefore, the State's taking of Cody and Emmett in January 2015 was in violation of Petitioners' due process violation of the U.S. Constitution.

CONCLUSION

Petitioners, Lisa and Greg Partin, respectfully request the United States Supreme Court to review the questions presented, as well as the lower courts actions and decisions. They respectfully request that the Court vacate the adoption order granted to the foster parents of Cody and Emmett Wilson, while Petitioners were in appeal, and grant the adoption of Cody and Emmett Wilson to their loving grandparents, Lisa and Greg Partin.

Respectfully submitted,

Dated: July 23, 2018

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